

AGREEMENT
Between
Battelle Memorial Institute
Pacific Northwest Division
and
_____ (Contractor)

A. PURPOSE

The purpose of this Volume Purchase Agreement (hereinafter "AGREEMENT") is to establish a collaborative relationship between the Pacific Northwest Division of Battelle Memorial Institute (hereinafter "Battelle") in support of its management and operation of Pacific Northwest National Laboratory for the U.S. Department of Energy (hereinafter "DOE"), and _____ (hereinafter "Contractor"), and hereinafter collectively referred to as the "Parties."

The purpose of this AGREEMENT is to document this contractor as a qualified participant in the High Performance and Low-E Storm Windows program per the High Performance and Low-E Storm Windows specifications.

B. OBJECTIVES

It is envisioned that the Parties will work together to develop the mechanisms that will promote and sustain a market for High Performance and Low-E Storm Windows. This objective will be accomplished by listing qualified vendors on the volume purchase program web site (<http://www.windowsvolumepurchase.org>).

The contractor agrees to sell their listed products at their quoted maximum price or a lesser price; agrees to meet the requirements outlined in specification; and agrees to report their sales of high performance windows and low-e storm windows that are part of the program directly to Battelle for the duration of the program. DOE in turn agrees to market the program and products from the qualified contractors participating in the volume purchase program to potential buyers and ensure all contractors adhere to the program requirements throughout the program.

This agreement also consists of

- Phase II Specifications Document, dated January 21, 2011
- Sales Reporting Document, dated January 21, 2011

C. INTELLECTUAL PROPERTY

No rights of any kind whatsoever in any invention, copyright, trade secret, or any other form of intellectual property (collectively defined as "IP") are granted or transferred under this AGREEMENT. Any IP exchanged pursuant to this AGREEMENT shall be governed by the terms of a separate written sales or licensing agreement.

D. FUNDING

This AGREEMENT shall not be used to obligate or commit funds. As the need may arise, specific work statements and details of support to be furnished by each of the Parties to this AGREEMENT will be developed separately from this AGREEMENT in specific agreements or contracts, subject to the availability of funds. No proposal or contract purporting to commit either Party to perform any work shall be binding upon that Party without the express written approval of Parties who are duly authorized to issue such agreements and contracts.

E. PROPRIETARY INFORMATION

Recognizing that no IP shall be granted or transferred under this AGREEMENT, neither Party shall be obligated to disclose information deemed proprietary, confidential, and/or a trade secret (proprietary information) to the other Party outside of the reporting sales generated from the program to Battelle. Reported sales will be kept strictly confidential and will not be shared with any other organization outside of Battelle and DOE.

F. PRICING

Prices reported to Battelle will be posted on the PNNL Volume Purchase Program website and will be locked in until September 18, 2011.

G. NO ADDITIONAL COMMITMENTS

This AGREEMENT is not intended to limit or restrict activities of any sector, business unit, division, subsidiary, or affiliate of the Parties. Other organizations may be invited to participate through a subcontract or other arrangement with either of the Parties in pursuing the objectives and scope described in this AGREEMENT.

Nothing contained in this AGREEMENT is intended to preclude either Party from quoting and offering for sale, or from selling to others, any item or service that it may otherwise offer for sale now and in the future.

H. NO AGENCY

This AGREEMENT is not intended to directly or indirectly constitute, create, or give effect to or to otherwise imply a joint venture, corporation, partnership, contract, or any form of formal business entity, other than the collaborative relationship set forth herein. Each entity signing this AGREEMENT is acting as an independent contractor. Neither Party to this AGREEMENT is intended to have, or is granted by the other Party, any authority or control over the other Party nor shall either Party have the power to bind the other Party. Nothing contained in this AGREEMENT is intended to be construed as providing for the sharing of profits or losses arising from the efforts of either of the Parties, and each Party will be responsible for bearing the costs incurred by it in performing any activity contemplated hereunder.

I. LIMITATION OF LIABILITY

No rights or limitation of rights will arise from the terms of this AGREEMENT. In the event that a Party is damaged through the actions or inaction of the other Party, the injured Party may pursue any and all rights available to it by law.

J. POINTS OF CONTACT

Technical Lead: All technical questions and sales reports should be directed to Terry Mapes, at 509-371-6745 or at terry.mapes@pnl.gov.

Contract Administrator: All contractual questions should be directed to the Contract Administrator, Christine Kelly, at 509-375-2622 or at christine.kelly@pnl.gov.

K. TERM OF AGREEMENT

The term of this Agreement starts the date of the last signature below to September 18, 2011. This AGREEMENT may be terminated at any time by either Party for any reason upon written notice to the non-terminating Party.

L. PROGRAM COMPLIANCE

Battelle reserves the right to ensure contractors' program compliance at its discretion. Battelle will address incidents of non-compliance directly with the contractor. Contractors in non-compliance will be given clear corrective action instructions via written communication along with deadlines for response and correction. If contractor does not meet program compliance within a reasonable time frame as communicated to the contractor in writing, Battelle will exercise its right to terminate this AGREEMENT.

M. ENTIRE UNDERSTANDING

This AGREEMENT constitutes the entire understanding of the Parties pertaining to matters contemplated hereunder at this time. The Parties signing this AGREEMENT intend that any implementing contract, license, or other agreement entered between the Parties subsequent hereto shall supersede and preempt any conflicting provision in this AGREEMENT.

N. DISCLAIMER AND USE OF NAMES

Each party agrees not to use the name(s) or identifying characteristics of the other party for any advertising, sales promotion, raising of investment capital or similar purpose without the prior, written permission of the other party.

By _____

By _____

Christine Kelly

Battelle Memorial Institute
Pacific Northwest Division

Title _____

Title _____

Date _____

Date _____

DRAFT